

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES,

Plaintiff,

vs.

NICHOLAS LINDSEY,

Defendant.

Case No. 2:11-cr-00217-LDG-CWH

ORDER

Pursuant to 18 U.S.C. § 4285, Defendant Nicholas Lindsey seeks an order directing the United States Marshal to pay travel and subsistence expenses for round-trip airfare necessary for the defendant to travel from his home in Billings, Montana to Las Vegas, Nevada to be arraigned on the superseding indictment (#26) filed December 14, 2011. *See* Def.'s Mot. (#33). The arraignment and plea hearing is currently scheduled for January 4, 2012, at 3:30 p.m before Magistrate Judge Leen.

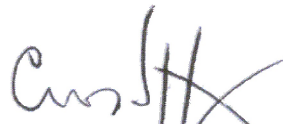
Section 4285 provides that when an indigent defendant is released pending a court appearance, a judge "may, when the interest of justice would be served thereby ... direct the United States marshal to arrange for that person's means of noncustodial transportation or furnish the fare for such transportation to the place where his appearance is required, and in addition may direct the United States marshal to furnish that person with an amount of money for subsistence expenses to his destination, not to exceed the amount authorized as a per diem allowance for travel under section 5702(a) of title 5, United States Code." 18 U.S.C. § 4285. Section 4285 only allows for payment of one-way travel to a court appearance, and not for costs of return travel. *See e.g. United States v. Gonzales*, 684 F.Supp. 838, 841 (D. Vt. 1998) ("There is no authority to pay for defendant's return to [home] after the court proceeding."); *United States v. Sandoval*, 812 F.Supp. 1156, 1157 (D. Kan. 1993); *United States v. Birdhorse*, 2007 WL 2358634 *2 (D.N.D.); *United*

1 *States v. Headden*, 2009 WL 2960382 (D. Ariz.). Further, while the marshal may be required to
2 provide money for subsistence during transit, the statute does not authorize subsistence funding for
3 the defendant once he has arrived at the place of trial. *Sandoval*, 812 F.Supp. at 1157; *United*
4 *States v. Nave*, 733 F.Supp. 1002 (D. Md. 1990).

5 Based on the foregoing, and good cause appearing therefore,

6 **IT IS HEREBY ORDERED** that Defendant Nicholas Lindsey's Motion (#7) is **granted**,
7 but only to the extent of travel expenses for one-way transportation. The United States Marshals
8 Service shall furnish Defendant Lindsey with transportation and subsistence funds, not to exceed
9 the amount authorized by law, from Billings, Montana to Las Vegas, Nevada to attend his
10 arraignment and plea hearing scheduled for January 4, 2011.

11 DATED this 21st day of December, 2011.

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14 **C.W. Hoffman, Jr.**
15 **United States Magistrate Judge**
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